

**Andover Conservation Commission Meeting Minutes
July 20, 2010**

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

Chairman Donald Cooper, Commissioner Alix Driscoll, Commissioner Gail Ralston, Commissioner Jon Honea, Commissioner Michael Walsh and Commissioner Floyd Greenwood. Staff Members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

Lincoln Woods

Conservation Restriction

Present in Interest: Mark Johnson and Ray Cormier

Staff Recommendation: Approve

Mr. Douglas presented this to the Commission. Discussion regarding the Conservation Restriction for Lincoln Woods. No action was taken on the Conservation Restriction at the previous meeting. Without signing the restriction the Conservation Commission will lose the enforcement rights by which we can prosecute violators of the restrictions. Although we will not have public access, the interests of the Wetlands Protection Act will be served by it.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to Approve; it was seconded by Commissioner Walsh and approved. Commissioners Driscoll and Greenwood were opposed.

2 Wildrose Drive

Staff Recommendation: Continue

Public Meeting on the Request for Determination of Applicability filed to determine if there are any resource areas within 100 feet of the property with the exception of the north side of Lowell Street is subject to the Massachusetts Wetlands Protection Act.

Ms. Cleary presented this to the Commission. We cannot open the public meeting as the Tribune neglected to run the legal ad.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to continue to August 3, 2010, it was seconded by Commissioner Driscoll and unanimously approved.

3 Gregory Circle and 7 Gregory Circle
Present in Interest: Bill MacLeod

Staff Recommendation: Approve

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a single family dwelling and associated site work.

Mr. Douglas presented this to the Commission. This was continued from July 6, 2010 for DEP comments. DEP has "No comments".

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to close the Public Hearing and issue the Order of Conditions per staff recommendations; it was seconded by Commissioner Walsh and unanimously approved.

Taylor Cove
93-97 River Street
Present in Interest: Bill MacLeod and Attorney Dan Borenstein

Staff Recommendation: Continue

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of a portion of a roadway, infiltration basin and three buildings with associated grading.

Agent Cleary presented this to the Commission. The ZBA waived all Commission submittal requirements. The Commission would like a wetland delineation and drainage peer review. The Commission can deny the project based on the Act for insufficient information. DEP has required the Applicant to hire a professional to conduct an endangered species review.

Attorney Borenstein believes the Commission cannot force the Applicant to pay for outside consultant fees if such expertise is available in the Town and if the Conservation Commission can supply that expertise. The Applicant will agree to some sort of drainage peer review.

Mr. MacLeod stated that Natural Heritage has informed him that the project will not adversely impact the wildlife habitat. He also stated that a drainage peer review is expected.

Chairman Cooper disagreed with Attorney Borenstein's case regarding delineation. The project in the case presented was an access road to a farm stand. This is a vast project and he is not willing to take the delineation off the table. A subcommittee consisting of

Linda Cleary, Don Cooper, Floyd Greenwood and Robert Douglas will meet with Attorney Borenstein and Bill MacLeod regarding submittal and peer review issues.

The issue of Redevelopment was discussed. The woods surrounding the project have grown back (revegetated) with only a small portion of driveway remaining. Commissioner Ralston believes this is not redevelopment because the riverfront area is extended, there is significant slope proposed and the vegetation on site now compared to what was there prior has grown significantly.

Mr. MacLeod stated that the roadway is the only portion considered redevelopment based on where the house and driveway were located. The old house and driveway were in the Riverfront area, so they are given credit for roadway. DEP accepted this position. Agent Cleary informed the Commission that the redevelopment was under the expired Order of Conditions.

Commissioner Honea wanted a definition of redevelopment and asked if the Commission needed to review the Application within the WPA regulations.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to continue to September 7, 2010 at 8:15pm, it was seconded by Commissioner Driscoll and unanimously approved.

18 and 20 Iron Gate Drive

Staff Recommendation: Approve

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of an inground swimming pool with associated pool deck, shed and equipment.

Mr. Douglas presented this to the Commission. Continued from meeting of July 6, 2010 for DEP comments. DEP comments suggest we look at the setbacks to the BVW. The project meets or exceeds our bylaw setbacks. They will be using a cartridge filter. Commissioner Greenwood would like to require the construction of a drywell as well as the cartridge filter.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Close the Public Hearing, require a drywell at construction and issue the Order of Conditions. It was seconded by Commissioner Honea and approved. Commissioner Ralston was opposed.

ACTION ITEMS:

Boiler Plate Condition for Pool Backwash

Vote to approve boiler plate condition for Pool Backwash. There is no DEP guidance on this issue. We need to restrict the discharge into the wetlands or BVW. Drywells could be put in under our order at time of construction. Guidelines from neighboring towns were reviewed.

Commissioner Ralston, Commissioner Greenwood and Mr. Douglas will work together to produce guidelines.

39-47 High Plain Road

Staff Recommendation: Approve

Vote to Approve no filing required per staff review. No wetlands within 100 feet of proposed work.

Commissioner Ralston made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

13-17 Boutwell Road

The Temple

Present in Interest: Howard Kassler, Howard Spector and Joe Peznola

Staff Recommendation: Approve Plan of Ann Marton

Vote to Approve the revised mitigation plan and Request for a 3 year extension to the Order of Conditions. Mr. Kassler updated the Commission on the project. The Temple had to cease building at the time of the financial crunch. The existing site needs to be stabilized so when they are ready, they can move ahead with construction. The Temple and the Commission are in disagreement as to what needs to be stabilized and how. There was a site visit in May to try to come to a compromise with Ann Marton and the Temple's consultant. An agreement was reached and it was our understanding that the Temple would move forward in time for late spring growing season but nothing was done to stabilize the site and now they have a new plan to submit. Ann Marton and Agent Cleary are not happy with the new plan.

Agent Cleary informed the Commission that Paul Finger had spoken to the Temple and agreed to let them "self monitor" when the financial crunch hit. Only when prompted would they provide a report. Ann Marton did a thorough review of the site and filed reports. At the site visit in May, Ann thought the entire site should be loamed and seeded, but that would be a great expense. Mitigation and replication have not been

done. Ann agreed to have an area raked and then MA Highway to seed at a great savings, but that was never done and the growing season was missed.

Joe Peznola informed the Commission that there are no violations on site. At the time of the site visit there was some self-vegetation and stabilization. He believes the site has sufficiently stabilized itself. The plan was to get the seeding done in time for the spring growing season, but the Temple could not afford it. The Temple would like to wait until September 15th to loam and seed.

Items to be voted on:

1. Extension of the Order
2. Temple's letter needed to be revised per Ann's recommendation by July 19th at 3:00pm and was not received
3. Monitoring money to be paid by July 27th
4. Enforcement Actions

Mr. Kassler informed the Commission that Ann Marton believes that the site is not stable in parts in contrast to Joe Peznola's belief that it is self-stabilized. The site is definitely not stable enough to self monitor.

Commissioner Ralston stated that with the history on this site, the Commission is not confident the Applicant can self-monitor. We can be confident in the outcome of our monitoring.

Commissioner Ralston made a Motion to Approve the plan of Ann Marton and disapprove the plan submitted by the Applicant; it was seconded by Commission Walsh and unanimously approved.

Commissioner Ralston made a Motion to issue an Enforcement Order outlining consultant fees due and payment of \$600.00 within two weeks and the balance by the end of August with Ann's revision to the Temple's letter to be referenced in the Enforcement Order, it was seconded by Commissioner Driscoll and unanimously approved.

Commissioner Ralston made a Motion that the seeding be done by September 30th or an Enforcement Order will be issued and take no action on the extension, it was seconded by Commissioner Driscoll and unanimously approved.

20 & 40 Andover Country Club Lane

Staff Recommendation: Approve

Issuance of an Order of Conditions. Applicant to provide planting plan to be reviewed by staff.

Commissioner Ralston made a Motion to Approve and issue upon receipt of staff approvable planting plan; it was seconded by Commissioner Driscoll.

Gray Road Culvert

Staff Recommendation: Approve

Vote to Certify breaching of a beaver dam so that maintenance of a storm damaged beaver deceiver can be done.

Commissioner Ralston made a Motion to Approve; it was seconded by Commissioner Greenwood and unanimously approved.

Overseer Confirmation

Staff Recommendation: Approve

Overseer Application from Steve Gross for the Wood Hill reservation.

Commissioner Ralston made a Motion to Approve; it was seconded by Commissioner Greenwood.

Ratification of I-93 Letter

Staff Recommendation: Ratify

Ratify Letter.

Commissioner Ralston made a Motion to Ratify; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

11 Burton Farm Road

Present in Interest: Lawrence Stefani

Issuance of a Notification of Satisfactory Completion of Work Certificate.

32 Mohawk Road

Present in Interest: Carol Rauseo and Mike Rauseo

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Commissioner Ralston made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Driscoll and unanimously approved.

INFORMATION ITEMS:

Foster's Pond

Information from Steve Cotton regarding Foster's Pond Nuisance Vegetation Pre-Treatment Notification.

General Working Session Eagle Scout Project

Discussion regarding Eagle Scout Project. Bob Decelle looking for a priority plan from the Commission for projects or providing a direction to the Eagle Scouts looking for projects. Commissioner Ralston agreed to put together an agenda for general work session and a list of possible projects. Will schedule a workshop date.

116 Haverhill Street

Present in Interest: Heather and Matt Nash

Enforcement Order for extensive cutting and destruction of wetland area. A tree fell during a storm, however many more trees were taken down. Mr. Douglas suggested bringing in a consultant to determine what wetlands have been damaged, installing a permanent no-disturb fence, plantings and monitoring by consultant all under an Enforcement Order.

Commissioner Driscoll made a Motion for Bob Douglas to issue an Enforcement Order with conditions to be ratified at the August 3, 2010 meeting; it was seconded by Commissioner Ralston and unanimously approved.

The next meeting will be held at 7:45pm on August 3, 2010.

The meeting was adjourned at 10:15pm by Motion of Commissioner Driscoll, seconded by Commissioner Ralston and unanimously approved.

Respectfully submitted by:

**Lynn Viselli,
Recording Secretary**